

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	4:07CR3005
)	
V.)	
)	MEMORANDUM
RICHARD FLEMING,)	AND ORDER
)	
Defendant.)	

After considering the motion of the defendant (filing 148), my earlier order regarding attorney fees (filing 139) should be amended so as to give the office of the Federal Public Defender more time to comply with the substance of my earlier directive. Therefore,

IT IS ORDERED that:

- (1) The motion to extend time (filing 148) is granted as provided herein.
- (2) By August 5, 2009, the office of the Federal Public Defender shall provide the undersigned with the following information in camera and ex parte:
 - A. the annual salary of the Assistant Federal Public Defender, Paralegal and Investigator who worked on this case;
 - B. the number of hours actually spent by the Assistant Federal Public Defender, Paralegal and Investigator who worked on this case; and
 - C. the "out of pocket" expenses of the office of the Federal Public Defender for work on this case including the fees and expenses of experts.

- (3) If the United States believes it is entitled to all or some of this information, counsel shall file a motion for disclosure no later than August 12, 2009.
- (4) The Federal Public Defender shall supplement the August 5, 2009 disclosure required by this order at the time of sentencing. That supplement will estimate the fees and expenses generated and incurred between the date of the earlier submission and the time of sentencing. That supplement may be provided ex parte and in camera.
- (5) Using the “lodestar” method, as modified to fit the exigencies of this type of case, the undersigned will determine whether Dr. Fleming is required to pay for the fees and expenses of the Federal Public Defender at the time of sentencing and, if so, the amount he is required to pay. To make that determination, the undersigned will use:
 - A. the information provided by the Federal Public Defender (as detailed above);
 - B. information regarding Dr. Fleming’s financial condition as presented in the Presentence Report; and
 - C. such legal memoranda as the parties may wish to submit at or before sentencing.

DATED this 18th day of June, 2009.

BY THE COURT:

S/Richard G. Kopf
United States District Judge